

Massachusetts

SS.

District: United States

Prisoner No. 29025 Case No.

0010448100532401

Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside,  
or Correct Sentence By a Person in Federal Custody

United States of America

V.

ALDO RAY CHANTILLO

(1) Now comes the defendant <sup>prisoner in the above</sup>  
in titled Matter, in Pursuant to Mass. Gen. Laws Rule 30.  
And Respondent Respectfully Moves this Honorable Court to all this  
defendants Motion to Vacate, and Set Aside, or Correct Sentence.

United States of America v.  
Taylor, 11, Fed 149, 132 (11th Cir. 1994)

Massachusetts SS.

District: United States

Prisoner No: 29023 Case No:

000448100532M01

United States of America  
v

Affidavit: In Support of defendant's Motion to Vacate,  
And Withdraw his Guilty Plea,

Now comes the defendant <sup>praise in Support of</sup>  
Defendant Motion to Vacate, and Withdraw his Guilty Plea,  
As Reasons here-in this Defendant States the Following

- (1) Defendant <sup>praise in Facts the defendant</sup>  
Mentioned in the above Captioned Matter.
- (2) Defendant is in fact Presently held at the Plymouth County  
Correctional Facility.
- (3) Defendant did in fact on the date of \_\_\_\_\_  
Enter a Guilty Plea,
- (4) Defendant was in fact Co-horsted into pleading Guilty by his  
Attorney.
- (5) Defendant was in fact Unaware of the Nature of the Charge  
in which he Pled Guilty.
- (6) Defendant did not understand the true nature of his  
Guilty Plea.
- (7) Defendant's Plea was not Made Intelligently, nor Voluntarily.  
The Judge failed to determine the lack of understanding  
as to the defendant's Guilty Plea.

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- 1) Table of Authorities
- Issues Presented
- Statement of the Case
- Statement of the Facts.

## Arguments of Case

- 1) The Court should permit this defendant's Motion to vacate and Withdraw his Guilty Plea, Because this defendant was never Completely Informed of the Elements of the Crime and Could not Therefore Make a knowing, intelligent, willing, and voluntary Plea to Such Charge.
- 2) The defendant's Constitutional right to Effective Assistance of Counsel who did not explain the Elements of the Charge, was in fact Breached Counsel had in fact Co-horsted Defendant by certain gestures when Defendant did not understand certain Questions asked by the Judge taken this defendant's Guilty Plea, defendant's Attorney did not properly Pre- pare for trial, in a manner that was not Straight Forward or Honest in this defendant's Best Interests.
- 3) Justice is not done, And therefore warrant for Defendant Withdraw Where as defendant Plead Guilty without a true understanding of the proceedings as a Matter of Constitutional due Process, A Guilty Plea... Must later be Set Aside unless record Shows Affirmatively that the defendant Entered the Plea freely and Understandingly.

## CONCLUSIONS

- ① Given the unexplain Elements, And their Complex Nature,  
 Given that defence Counsel did not testify that he had gone  
 Over the Elements with this defendant, Given the facts of this  
 Case, this defendant can not be said to have been properly  
 informed of the Elements or to have knowing intelligent, and  
 Voluntary Plea Guilty.  
 Given the fact that defendant knew only what his Attorney  
 Co-Horst him into doing by pre-Arranged Signal.  
 Given the facts as a Result of this Defendants lack of  
 Understanding the plea proceeding,  
 Defendants Motion to Vacate, and Set aside or Correct Sentence  
 Should be Allowed.

- ① Record of Appendix: 0010448100532M01
- ② Docket Entry Numbers: 0010448100532M01
- ③ Indictment Numbers: 0010448100532M01

Defendants Motion to Vacate and Set aside, or Correct sentence  
 Affidavit in Support of Motion to Vacate and Set aside, or Correct  
 Sentence.

Affidavit of Indigency, and Request for Waiver  
 Motion to Appoint Counsel

## Table of Authorities

United States of America v. Grigot  
147 F.3d 1193, 1197 (10th Cir. 1998)

United States of America v. Brewster  
137 F.3d 853, 857, (5th Cir.)

United States of America v. Siegel.  
102 F.3d 1281 (11th Cir. 1996)

United States of America v. Taylor  
11 F.3d 1249, 132, (11th Cir 1994)

United States of America v. Mandello  
927 F.2d 1463, 1467 (9th Cir. 1991)

## Issues Presented

- (1) The Standard:  
A Post Sentence, Motion to Vacate and Set aside or Correct Sentence, is treated as a Motion for a new trial Pursuant to R. Crim P. 35.
- (2) it should be granted if it appears that Justice was not Properly done.
- (3) Justice is not done and Motion to Vacate and Set aside or Correct Sentence, is therefore warranted, where a Defendant Pleads Guilty without an understanding of the Proceedings, As a Matter of Constitutional due process.
- (4) A defendant's Plea is not Entered into freely and understandingly unless he comprehends the nature of the Crime to which He is Pleading Guilty
- (5) IF the defendant is ignorant of a Critical Element of an Offense, his Plea of Guilty to that offense Can not Serve as An intelligent admission of Guilty.

## Post Conviction Remedies For Alien Prisoners

- (10) The unknowing alien's Prisoner May Find himself faced with the double punishment of serving his Criminal Sentence And deportation, Because the Immigration consequences of a Criminal Conviction can be quite severe, the Court And legislators in several States have provided the alien Defendant with some new grounds for possible Post Conviction Relief. In certain States, California, Connecticut, Massachusetts, Oregon, Washington, Defendant who Plead guilty unaware of the Immigration consequences of his/her Plea May now Be able to have his/her guilty Plea set aside on that Ground.

Washington, have enacted Statutes which require the Court to inform the defendant of the possible deportation consequences of a guilty Plea, if the Court does not follow this Procedure in these States it May Render the guilty Plea Invalid and Subject to a Motion to Vacate.

Date 3/17/04

Respectful Submitted  
 Alex Ray Chandler  
